

Date

JoAnn Rucker
Council Clerk, City of Covington
P.O. Box 778
Covington, Louisiana 70434

Re: Ethics Board Docket No. 2021-072

Dear Ms. Rucker:

The Louisiana Board of Ethics, at its June 4, 2021 meeting, considered your request, on behalf of the City of Covington, for an advisory opinion as to whether the city can purchase products from a city council member's employer and whether that employer may sell to other parties, including city employees.

FACTS PROVIDED

Larry Rolling is a Councilman at Large for the City of Covington (the "City"). Mr. Rolling is also an employee of Action Screen Printers ("ASP"). He has no ownership interest in ASP and does not receive sales commissions. He became employed with ASP in January 2021.

The City is considering purchasing products bearing the city's logo from ASP. ASP is considering selling such products to third parties, including other employees of the City. The City is considering reimbursing its employees for such purchases. Such reimbursements are made on a case-by-case basis, only as needed to perform job functions. Finally, the City is considering using vendors who may subcontract work out to ASP.

ISSUES PRESENTED

You specifically ask the following questions:

- 1) May ASP sell products to the City bearing the City logo and paid for by City funds?
- 2) May ASP sell products to third parties bearing the City logo?
- 3) May ASP sell products bearing the City logo to City employees paid for by the employees' personal funds?
- 4) May a City employee who pays ASP with personal funds for products bearing the City logo request to be reimbursed by the City?
- 5) May ASP subcontract work for third parties who contract with the City?

LAWS

La. R.S. 42:1113A states no public servant, or a member of such a public servant's immediate family, or a legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1111C(2)(d) provides that no public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are: (d) Neither performed for nor compensated by any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency; conducts operations or activities which are regulated by the public employee's agency; or has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

La. R.S. 42:1116 provides that no public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, or other person with anything of economic value.

La. R.S. 42:1117 provides that no public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of this Part.

ANALYSIS

- Question 1: As Mr. Rolling does not have an ownership interest in ASP, under Section 1113A, ASP would not be prohibited from entering into a transaction with the City. However, Section 1111C(2)(d) would prohibit Mr. Rolling from receiving compensation from ASP while ASP has or is seeking to obtain contractual, business or financial relationships with the City. Further, any payments made to Mr. Rolling which are in violation of Section 1111C(2)(d) would also represent a violation of Section 1117 by ASP.
- Question 2: If the City provided the logo to ASP in order to imprint products with such logo, this would be a transaction between the City and ASP. Accordingly, the analysis under Question 1 applies. While Section 1113A would not prohibit such a transaction, any compensation paid to Mr. Rolling would be a violation of Section 1111C(2)(d) and Section 1117.
- Question 3: As the exchange of the logo from the City to ASP would represent a transaction regardless of the final purchaser of any product imprinted by ASP, the analysis under Question 2 applies. While Section 1113A would not prohibit such a transaction, any

compensation paid to Mr. Rolling would be a violation of Section 1111C(2)(d) and Section 1117.

Question 4: The reimbursement of a city employee would represent a transaction separate from the exchange of the logo between the City and ASP. These transactions would represent neither a transaction nor a business relationship between the City and ASP. However, neither the City nor Mr. Rolling should direct employees to use the services of ASP.

Question 5: Insufficient information was provided to determine the nature of the relationship between ASP, as a subcontractor, and the City. If this subcontract relationship is pursued, a more specific request should be submitted.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would not prohibit transactions between the City and ASP. However, any compensation received by Mr. Rolling from ASP while ASP is selling products bearing the City logo would represent violations of Section 1111C(2)(d) and Section 1117.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Charles E. Reeves, Jr.
For the Board

No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.

DISCLAIMER

This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.